

DEPARTMENT OF THE ARMY  
HEADQUARTERS, UNITED STATES ARMY MATERIEL COMMAND  
5001 EISENHOWER AVENUE, ALEXANDRIA, VA 22333-0001

AMC SUPPLEMENT 1  
to AR 12-12

10 November 1993

Security Assistance and International Logistics

PROCESSING DISCREPANCY REPORTS AGAINST  
FOREIGN MILITARY SALES SHIPMENTS

Local supplementation is permitted but not required. If supplements are issued, commands, agencies, and activities will furnish a copy to the U.S. Army Security Affairs Command (USASAC), ATTN: AMSAC-MP, Alexandria, VA 22333-0001.

AR 12-12, 17 December 1991, is supplemented as follows:

Page 1, paragraph I.A., Purpose and Scope. Add the following:

This supplement establishes additional policy and procedures prescribing the methods and conditions under which discrepancies in Army-sponsored Foreign Military Sales (FMS) shipments will be processed within AMC activities.

Page 2, paragraph II.E., Policy. Add subparagraphs 1, 2, 3, and 4:

1. Claims of \$200.00 or less (\$100.00 or less for cases implemented prior to 1 Jun 92) will not be processed by the U.S. Government for overages, shortages (including nonreceipt), or damages. However, claims of any dollar value may be processed by the U.S. Government for duplicate billing, product quality deficiency, improper identification, expired shelf life, or improper documentation.

2. USASAC (AMSAC-O) will furnish information copies of RODs, which have been routinely closed due to low dollar value, to the concerned major subordinate command (MSC), Defense Logistics Agency (DLA) Center, or GSA Region.

3. USASAC has the option to centrally adjust selected RODs valued over \$100 but not more than \$300. The objective is to adjust these RODs up to the level where the cost to process exceeds the value of the ROD. The procedure involves an evaluation of RODs to determine (a) if further processing would

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\*This supplement supersedes AMC Suppl 1 to AR 12-12, 6 July 1989.

approach a cost of \$300 and (b) if the ROD's potential merit would in all probability result in a credit. This is an exception-type procedure that must be used judiciously to prevent abuse. USASAC (AMSAC-O) will forward information copies of RODs closed under this procedure to the applicable MSC, DLA Center, or GSA Region. The Central Case Manager (CCM), USASAC-NC, has the sole responsibility for evaluating the circumstances surrounding the ROD submission and determining the appropriateness of invoking this procedure. Submission of a ROD falling within this dollar range to the supply source for resolution is conclusive evidence that the CCM did not deem automatic adjustment appropriate. In such a situation, the ROD will be processed in exactly the same manner as a ROD valued over \$300.

4. FMS RODs claims up to \$800 for overages and shortages charged against defense business operating funds (DBOF) will automatically be adjusted without depot research (exception to this policy are overages and shortages on controlled inventory items code 7 items and inventory category codes 0, 2, 3, and 8 items which must be researched regardless of dollar value).

Page 2, paragraph II.H., Policy. Add the following:

DLA depots will segregate security assistance program files from other shipping documents, retain for 2 years, and provide a central deposit location for later retrieval. AMC policy is to retain security assistance shipping documentation in the depot's current files for 3 years. The files will then be transferred to the Record Holding Area and held there for an additional 2 years. This ensures local availability of shipping documentation for 5 years.

Page 3, paragraph IV, Definitions. Add the following:

Customer Order Classification AM. Sale from stock. Item not to be replenished through procurement.

Customer Order Classification RM. Sale from stock. Item to be replenished with a modern/improved replacement.

Customer Order Classification RP. Sale from procurement.

Customer Order Classification RS. Sale from stock. Item to be replenished from procurement (replacement-in-kind).

Deficiency Reporting System (DRS). An automated data base which serves as a repository for deficiency data (e.g., RODs) to support management functions, to provide for status accounting during resolution of deficiency reports, and to produce working level and management summary reports.

Page 6, paragraph V.D.1., Responsibilities. Add the following:

USASAC (AMSAC-O) is designated as the focal point representative for the purpose of reviewing requests for reconsideration and contested SFs 364.

Page 8, paragraph VI.A.1. Add the following:

USASAC (AMSAC-O) will annotate the Finance and Accounting Service (DFAS) billing date, if available, on the cover letter before forwarding the ROD to a Department of Defense (DOD) or GSA activity.

Page 9, paragraph VI.A.5. Add subparagraph i after subparagraph h:

i. USASAC (AMSAC-O) will notify AMC (AMCQA-PD) in advance of the quarterly AMC Review and Analysis (R&A) when the ratio of RODs to lines shipped exceeds the established performance ceiling. DLA and concerned MSCs will be advised concurrently with the notification to AMC.

Page 9, paragraph VI.A.6. Add the following to subparagraph c:

Replacement requisitions will not be initiated by U.S. Government agencies for RODs received from the customer wherein credit is requested and materiel is still required. The ROD and the requirement will be separated. The country must rerequisition materiel under a current FMS case as soon as it is determined that an item was not received or is defective. The country is required to pay the existing price at the time the item is dropped from inventory regardless of the fact that the materiel was initially requisitioned at a lower price.

Page 9, paragraph VI.A.6. Add subparagraph f:

f. Furnish copies of all RODs, or electronically transmit ROD data, which reflect depot-related deficiencies to the Directorate for Product Assurance at the responsible shipping activity.

Page 11, paragraph VI.D.2.a., Reply to SF 364. Add subparagraphs (1) and (2):

(1) The customer must receive a final or interim response within the specified time standards. Identification of problems internal to DOD is not considered justification for noncompliance with time standards. The reason for delay included in the interim reply must be outside of DOD control. In the latter case, USASAC (AMSAC-O) will suspend the ROD, i.e., "stop the clock," pending resolution of the problem causing the delay. For

example, a DOD inventory control point/item manager (ICP/IM) cannot control the actions of a DOD contractor. If the contractor's delay in responding is the reason a ROD cannot be processed within the 75-day limitation, the responsible MSC, DLA Center, or GSA Region will provide an interim reply to the appropriate regional directorate at USASAC-NC. When interim replies are provided to meet the allowed 75-day timeframe, they must cite the reason for the delay and provide a projected completion date. USASAC (AMSAC-O) will forward the interim reply to the customer. If U.S. contractor accepts liability for resolution of ROD, the MSC will follow through with the contractor until resolution of the matter has been achieved. FMS RODs will be given the same priority as RODs processed on U.S. Government shipment. Processing times will continue to be of special interest.

(2) Issuance of disposition instructions constitutes a reply. Credit will be granted upon receipt of the returned materiel at the storage activity designated by the supply source, i.e., the location specified on the SF 364. Actual granting of credit is considered a follow-on action and is not included in the 75-day timeframe.

Page 11, paragraph VI.E., Distribution. Add subparagraph 3:

3. The processing time standards should be met 90 percent of the time.

Page 12, paragraph VI.F.2.a., Disposition of Materiel. Add subparagraphs (1), (2), and (3):

(1) Use of Transportation Account Code (TAC) for the return of Army-sponsored FMS materiel shipments to CONUS or DOD supply activities under an approved ROD is authorized when the U.S. Government is at fault.

(2) Use of TAC BIII applies to Army Military Assistance Program (MAP) shipments only.

(3) Army documents utilized for return of FMS materiel, i.e., DD Form 1348-1A, will cite the following fund appropriation (pertains to all materiel returns, stock fund, or otherwise) in Block 13:

- (a) Appropriation: 97-11X8242.L009
- (b) Command Code: 8401
- (c) FMS Country/AIII
- (d) Accounting Station Number: S843000

Page 12, paragraph VI.F.3., Management Evaluation. Add the following:

USASAC (AMSAC-O) and each MSC will monitor ROD performance to assure DOD objectives are met.

Page 12, paragraph VI.F.4., Unresolved Reports. Add subparagraphs c, d, e, and f.

c. USASAC (AMSAC-O) is designated as the focal point representative for the purpose of reviewing requests for reconsideration and contested SFs 364.

d. Requests from MSCs for FMS administrative funds to pay unresolved RODs valued up to \$50,000 will be forwarded to AMSAC-O for review and approval. AMSAC-O will provide a copy of RODs valued over \$10,000 to the Alexandria Regional Directorate and HQDA (DALO-SAA). AMSAC-O will obtain a legal position from the AMC Office of the Command Counsel for RODs valued in excess of \$10,000.

e. The following documentation, as a minimum, must be submitted to support payment from the administrative fund for RODs valued over \$10,000:

(1) A copy of the LOA with applicable amendments and modifications.

(2) Copy of the ROD.

(3) Analysis of the ROD by applicable technical, materiel management, quality assurance and procurement personnel with comment and position.

(4) Legal opinion by the command counsel at the cognizant MSC.

(5) Dates and places where title passed to the foreign country.

(6) Dates of billing.

(7) Means of providing the item (whether through stock or by procurement).

f. Any correspondence by USASAC-NC to a customer involving rejection of a ROD valued in excess of \$10,000 will be formally coordinated with the appropriate regional directorate at USASAC-Alexandria.

Page 14. Add paragraphs VI.F 7, 8, and 9:

7. Financing Reports of Discrepancy (ROD) When the U.S. Government is Liable.

a. Legislative requirements dictate that the U.S. Government conduct the FMS program on a nonprofit (no profit no loss) basis. This principle must be applied in determining whether U.S. Government or FMS administrative funds will absorb the cost of a particular ROD transaction requiring U.S. Government corrective action. If the U.S. Government will benefit from the transaction, then it has the responsibility to correct the discrepancy, to the extent of the benefit accrued to the U.S., by financial adjustment from appropriated funds. To the extent that the U.S. Government will incur a loss on a particular transaction, that loss will be absorbed by FMS administrative funds.

b. RODs valued in excess of \$50,000 will be submitted to HQDA (DALO-SAA) for evaluation before being charged against FMS administrative funds. DALO-SAA will obtain the DA legal position on the liability of the U.S. Government. The legal position will originate with the organization making the initial determination on liability, i.e., the MSC. This initial opinion flows through USASAC/AMC, with appropriate endorsement, to HQDA for final preparation of the DA legal position. Based on the legal opinion, DALO-SAA will work with the Defense Security Assistance Agency (DSAA) and the Office of the Assistant Secretary of the Army (Financial Management), as appropriate, to resolve the matter. DSAA approval is required before FMS administrative funds are used to pay these RODs.

c. The following information provides guidance for specific types of discrepancies and indicates whether FMS administrative funds or U.S. Government appropriated funds will finance the cost of correcting the discrepancy where the U.S. Government is legally liable to do so. As stated in paragraph a above, the U.S. Government will not make a profit or sustain a loss on the FMS program. This guidance will be followed in determining the type of funds to be used.

<u>Nature of Discrepancy</u>	<u>FMS Administrative Funds</u>	<u>U.S. Government Appropriations/Funds</u>
1. <u>Defective or Defective Materiel</u> (item deficiency)		
a. From Procurement	Not applicable, except in cases where U.S. action or inaction causes inability of the FMS customer to obtain satisfaction from the contractor.	Not applicable.
b. From Stock	Transportation of materiel for rework or disposal, or, if more cost effective, travel and per diem costs of rework team.  The cost of testing damaged materiel when it is determined to be necessary in order to service the FMS customer.	Applicable U.S. Government appropriation or fund is responsible for (1) refund to the customer account or account, or (2) repair or rework of defective items issued to FMS customers (except as indicated under "FMS Administrative Funds" heading).
2. <u>Damaged Materiel</u>		
a. From Procurement	Not applicable, except in cases where U.S. action or inaction causes inability of the FMS customer to obtain satisfaction from the contractor.	Not applicable.
b. From Stock	Transportation of materiel for rework or disposal, or, if more cost effective, travel and per diem costs of rework teams.  The cost of testing damaged materiel when it is determined to be necessary in order to service the FMS customer.	Applicable U.S. Government appropriation or fund is responsible for (1) refund to the customer account, or (2) repair or rework of defective items issued to FMS customers (except as indicated under "FMS Administrative Funds" heading).

<u>Nature of Discrepancy</u>	<u>FMS Administrative Funds</u>	<u>U.S. Government Appropriations/Funds</u>
3. <u>Materiel Not Received</u> (nondelivery, shortage)		
a. From Procurement	Not applicable, except in cases where U.S. action or inaction causes inability of the FMS customer to obtain satisfaction from the contractor.	Not applicable.
b. From Stock short	Not applicable, except in cases where U.S. action or inaction causes inability of the FMS customer to obtain satisfaction from the carrier. DOD policy requires that receiving reports/proof of shipment be obtained whenever materiel is released to a common carrier (including the U.S. Post Office). When materiel is delivered through the Defense Transportation System (DTS), the Military Assistance Advisory Group (MAAG) or its designated representative is required to receipt for the FMS/MAP materiel. These procedures make it possible to identify	If an item arrived or is not delivered (e.g., short unit pack, misdirected shipment) and the carrier is absolved of liability, then the shortage or misdirection is determined to have occurred at the point of origin and will be absorbed by applicable U.S. appropriation. In those instances, a credit may be given to the FMS customer's account and charged to the U.S. Government appropriation which was initially credited as a result of such transaction.
Misdirect-	responsibility for any loss materiel in transport. FMS administrative funds may be used only when it is specifically substantiated that the U.S. Government failed to meet its responsibility relative to the shipment of the materiel (except as indicated under "U.S. Appropriations/Funds" heading).	ed shipments not returned to stock will be absorbed as an inventory loss against the applicable U.S. Government materiel account.  If U.S. Government owned, government furnished equipment (GFE) which is to be incorporated into an



<u>Nature of Discrepancy</u>	<u>FMS Administrative Funds</u>	<u>U.S. Government Appropriations/Funds</u>
		<p>end item is lost or damaged during shipment to the contractor (i.e., prior to incorporation into the end item), then the customer's funds will be used to absorb the applicable cost. Recognition should be given to the possibility that a "lost" GFE shipment may be "lost" only on the accounting records but still physically in the U.S. Government's possession. In instances where this is probable, no charge should be made to the purchaser for "lost" GFE.</p>
4. <u>Overage</u>		
a. From Procurement	Not applicable unless the U.S. Government is responsible for the overage.	Not applicable.
b. From Stock	<p>Costs to transport excess items to stock or to disposal. If claimed by the customer, costs to transport excess items issued to the country. Note. Out-of-pocket costs of packing, crating, and handling (PCH), if claimed, will be paid from PCH funds.</p>	<p>If billed and customer does not want the items, amounts for excess items charged will be refunded to the FMS customer account and the appropriate Government appropriation/fund will be charged. Overage items not returned to stock will be absorbed against the applicable U.S. Government materiel property account as an inventory loss.</p>

<u>Nature of Discrepancy</u>	<u>FMS Administrative Funds</u>	<u>U.S. Government Appropriations/Funds</u>
5. <u>Improper Identification</u> (incorrect item, i.e., nonsubstitutable item)		
a. From Procurement	Not applicable unless the U.S. Government is responsible for the problem.	Not applicable.
b. From Stock	When the incorrect item is not returned, the cost of providing a customer refund will be absorbed by the FMS administrative Fund. On the other hand, if the incorrect item is returned, then the appropriate adjustments within the U.S. Government accounts should be effected and only the net additive cost should be absorbed by the FMS Administrative Fund. Note. Out-of-pocket costs of packing, crating, and handling (PCH), if claimed, will be paid from PCH funds.	The refund to the customer account will be charged against the appropriate U.S. Government appropriation/fund which was initially credited as a result of such transaction. Incorrect items issued and not returned to stock will be absorbed against the applicable U.S Government materiel property account as an inventory loss.
6. <u>Improper Documentation</u>		
a. From Procurement	Not applicable unless the U.S. Government is responsible for improper documentation.	Not Applicable.
b. From Stock	When the incorrect item is not returned, the cost of providing a customer refund will be absorbed by the FMS Administrative Fund. On the other hand, if the incorrect item is returned, then the appropriate adjustments within the U.S. Government accounts should be effected and only the net additive cost should be absorbed by the FMS Administrative Fund.	The refund to the customer account will be charged against the appropriate U.S. Government appropriation/fund which was initially credited as a result of such transaction. Improperly documented items which are not returned to stock will be absorbed against the applicable U.S. Government materiel

Nature of Discrepancy	<u>FMS Administrative Funds</u>	U.S. Government <u>Appropriations/Funds</u>
	<u>Note.</u> Out-of pocket costs of packing, crating, and handling (PCH), if claimed, will be paid from PCH funds.	property account as an inventory loss.
7. <u>Duplicate or Erroneous Billing</u>		
a. From Procurement	Not applicable.	Erroneous or duplicate charges will be corrected, i.e., refund (where appropriate) or an adjustment will be made to the customer account. Adjustments will be charged against the appropriate U.S. Government appropriation/fund or the customer account when appropriate.
b. From Stock	Not applicable.	Erroneous/duplicate charges will be corrected, i.e., refund (where appropriate) or an adjustment will be made to the customer account. Adjustments will be charged against the appropriate U.S. Government appropriation/fund or the customer account when appropriate.
8. <u>Loss of Customer Item in Inventory</u> (Provided for fabrication, assembly, or rework)	When the item is no longer maintained in the U.S. Government inventory, the U.S. Government cannot benefit from retaining the item. In this instance the FMS Administrative Fund is the appropriate source for customer reimbursement.	If the item is currently maintained in U.S. Government inventory and the loss is a bookkeeping or inventory control loss, than the item is still physically available. Appropriate credit will be provided from U.S. Government funds.

8. Funding/Processing RODs Under Specific Conditions.

a. The first steps that must be taken under any condition are to determine who is at fault for the discrepancies noted in the ROD (e.g., the U.S. Army, contractors, etc.) and to determine whether the ROD value is significant. (See paragraph II.E.)

b. Under a Procurement Appropriation Army (PAA) sale from a stock order classified RS, if it is determined (using the criteria listed in paragraph 7c) that the U.S. Army is at fault (e.g., the U.S. Army shipped defective goods, shipped less than billed, etc.), Army funds must be used to reimburse the customer. The following will apply under the aforementioned condition:

(1) If the ROD is against a transaction or previous order established in an appropriation that has expired, the ROD will be processed against current year funds of that appropriation.

(2) If the ROD is against an order or transaction affecting an unexpired appropriation, the ROD will be processed against the unexpired/unobligated balance. For accounting purposes, the transaction will be treated as a refund (reduction to collections) against the appropriate Budget Line Item Number (BLIN) and Procurement Request Order Number (PRON) to the secondary line. Earnings and orders received will also be reduced.

c. Where the U.S. Army is at fault (see paragraph 7c) under a PAA sale from a stock order classified AM, when collections received from sales were deposited in Miscellaneous Receipts, funds for the ROD will be withdrawn from Miscellaneous Receipts by the use of SF 1081.

d. Where the U.S. Army is at fault (see paragraph 7c) under a PAA sale from a stock order classified RM, when collections received from sales go to DA for reprogramming purposes, the MSC must come through AMC, ATTN: AMCPP, to DA to obtain funds to cover the ROD.

e. Under a procurement order classified RP, the following cases are illustrative of U.S. Government action that freed the contractor from liability and justified the use of the FMS Administrative Fund to resolve the discrepancies:

(1) An Army activity authorized the acceptance and delivery of defective items. The customer country was unable to obtain satisfaction from the contractor because U.S. Government action, specifically final acceptance of the materiel, absolved the contractor from liability for the deficiencies in question.

(2) A technical data package (TDP) which did not meet the customer's specifications was erroneously procured. The TDP was not usable for another purpose; thus, the cost could not be recovered.

(3) A revisioning service for a TDP was erroneously procured in hard copy format instead of the aperture card format specified in the Letter of Offer and Acceptance (LOA).

f. A FMS order can be executed at a contractor-owned contractor-operated (COCO) plant, a government-owned contractor-operated (GOCO) facility, or a government-owned government-operated (GOGO) plant. In the latter instance, the U.S. Government assumes the role of a contractor when an item manufactured at a GOGO facility, i.e., an Army Industrial Funded (AIF) arsenal, is sold to a foreign country. For the purpose of applying the guidelines contained in paragraph VI.F.7.c. regarding the source of funding for payment of valid claims on FMS shipments when the U.S. Government is found liable, sale of materiel manufactured at a GOGO facility is construed as a sale from stock rather than a sale from procurement. The appropriate U.S. Government appropriation will be used to finance the repair and rework of the defective item or the granting of credit to the customer's account. FMS administrative funds will only be used to finance the transportation of materiel for rework or disposal, the testing of defective items when that is necessary to service the FMS customer, or travel and per diem costs of a rework team if this is more cost effective.

g. Based on the circumstances of a particular case, USASAC-NC may make a determination that the potential for a latent defect exists after being advised. In such a case, USASAC-NC will notify the International Logistics/Security Assistance Directorate, and they in turn the Materiel Management Directorate, of the MSC that the possibility exists and will recommend that the ROD be furnished to the Product Assurance Directorate (PAD) for action. Upon receipt of the FMS ROD, PAD will investigate it as if it were a SF 368, Product Quality Deficiency Report, under the provisions of AR 702-7-1 and AMC-R 702-33.

h. A ROD may be submitted for discrepancies on the serviceability of replacement parts and components in connection with a customer-owned asset being repaired under a Maintenance Support Arrangement (MSA). Repair completed in a U.S. Army depot will be treated as a sale from DOD stock for the purpose of applying the guidance contained in paragraph VI.F.7.c. Repair accomplished in a commercial facility will be treated as a sale from procurement.

9. FMS Warranty Claim Actions (WCA).

a. The SF 364 is used by FMS customers to report failures covered by warranty. Warranty claim RODs must be specifically identified as such to ensure proper and expedited resolution. The customer must provide all information required under the provisions of the warranty, although all data might not be included on the SF 364 itself.

b. USASAC-NC will send the SF 364 to the MSC's International Logistics/Security Assistance Directorate for forwarding to the Warranty Office. The Warranty Office will coordinate the resolution of the WCA with the responsible contractor per the terms and conditions of the warranty.

Encl 1. Add the following to the Army ILCO's address in Item 3:

3d Street and "M" Avenue

Encl 2  
AMC Suppl 1 to AR 12-12

Other Related Publications  
(not cited in AR 12-12)

DOD 5105.38-M	Security Assistance Management Manual
AR 12-8	Foreign Military Sales/Grant Aid Operations and Procedures; Munitions Control Program
AR 37-60	Pricing for Materiel and Services
AR 725-50	Requisitioning, Receipt and Issue System
AR 735-11-1	Uniform Settlement of Military Freight Loss and Damage Claims
AR 735-11-2	Reporting of Item and Packaging Discrepancies
AMC-R 740-17	Inventory and Accountability
AMC-R 735-5	Processing Reports of Discrepancy at AMC Accountable Supply Distribution Activities and Depots
ADSM 18-LCE-JCA-ZZZ-UM-01	Commodity Command Standard System Deficiency Reporting System

AMC Suppl 1 to AR 12-12

The proponent of this supplement is the HQ AMC U.S. Security Affairs Command (USASAC). Users are invited to Send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to the Commander, USASAC, ATTN: AMSAC-MP, 5001 Eisenhower Avenue, Alexandria, VA 22333-0001.

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